

Issue: Compliance - Grievance Procedure (other Issue); Ruling Date: December 6, 2018; Ruling No. 2018-4821; Agency: Department of Behavioral Health and Developmental Services; Outcome: Grievant Not in Compliance.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Equal Employment and Dispute Resolution

COMPLIANCE RULING

In the matter of the Department of Behavioral Health and Developmental Services
Ruling Number 2019-4821
December 6, 2018

The Department of Behavioral Health and Developmental Services (the “agency”) requests a ruling concerning two purportedly duplicative grievances initiated by the grievant.

FACTS

On or about November 28, 2018, the Office of Equal Employment and Dispute Resolution (“EEDR”) received two grievances initiated by the grievant, utilizing a Dismissal Grievance Form A and an Expedited Grievance Form A. The dismissal grievance notes November 7, 2018 as the “Date Grievance Occurred,” while the expedited grievance notes November 6, 2018 as the “Date Grievance Occurred.” Both grievances challenge three alleged policy violations that ultimately led to the grievant’s receipt of disciplinary action and termination on November 7, 2018. Both grievances request as the remedy reinstatement and backpay. Upon receipt of the grievances, the agency argues that they are essentially duplicative of each other and asks that the expedited grievance, which apparently challenges the notice given to the grievant of pending disciplinary action, be closed.

DISCUSSION

The *Grievance Procedure Manual* states that a grievance may not “challeng[e] the same management action or omission challenged by another grievance.”¹ In this instance, it appears that both grievances essentially challenge the same action (the events of October 29, 2018 that gave rise to the Group III Written Notice and termination). Thus, there exists a basis to close one of the November 28, 2018 grievances as the two grievances are duplicative of each other.

Accordingly, the dismissal grievance will proceed forward as the grievance challenging the November 7, 2018 Group III Written Notice. The November 28, 2018 expedited grievance will be administratively closed. However, this ruling does not foreclose the grievant’s ability to raise at hearing any arguments regarding the disciplinary action that were set forth in the expedited grievance. If it has not already done so, within five days of the date of this ruling, the agency is directed to send a completed Form B to EEDR requesting the appointment of a hearing officer.

¹ *Grievance Procedure Manual* § 2.4.

EEDR's rulings on matters of compliance are final and nonappealable.²



Christopher M. Grab
Director
Office of Employment Dispute Resolution

² See Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).